

reserves the business name with the state or local government, in order to avoid the use of the same or a confusingly similar name by two brokers.

(c) *Fee.* Each application for a permit shall be accompanied by the fees set forth in § 111.96.

(d) *Responsible supervision and control.* The applicant shall have a place of business at the port where the application is filed, or shall have made firm arrangements satisfactory to the port director to establish such a place of business. The applicant shall exercise responsible supervision and control over the office as defined by § 111.11(d). On and after October 31, 1987, other than as provided below, the applicant shall employ in each district for which a permit is granted at least one individual licensed under this subpart to exercise responsible supervision and control over the customs business conducted in the district. If the applicant can demonstrate to the satisfaction of the Commissioner that he regularly employs, in the region in which the district is located, at least one individual who is licensed, and that adequate procedures exist for the person employed in that region to exercise responsible supervision and control, as defined by § 111.11(d), over the customs business conducted in the district, the Commissioner may waive the requirement for a licensed broker in that district. A request for a waiver, supported by information on the volume and type of customs business conducted, or planned to be conducted, and evidence demonstrating that the applicant is able to exercise responsible supervision and control, shall be sent to the port director in the district in which the waiver is sought. The port director shall review the request for a waiver and make recommendations which will be sent to the Office of Field Operations, Customs Headquarters.

(e) *Action on application.* Upon receipt of the application for a permit, the district director shall immediately notify the district director in each other district in which the applicant has a permit and request comments as to the applicant's compliance with the duties and responsibilities of a broker in the other district. The district director in the other district shall timely submit

his comments and recommendation to the district director making the request. The district director who received the application shall make a decision on it after considering all of the facts and circumstances. An application shall be approved unless action is pending in another district to suspend or revoke the applicant's license.

(f) *Investigation.* The district director may require an investigation to be conducted if additional facts are deemed necessary before making a decision upon the application.

[T.D. 86-161, 51 FR 30341, Aug. 26, 1986, as amended by T.D. 91-77, 56 FR 46115, Sept. 10, 1991; T.D. 95-77, 60 FR 50019, Sept. 27, 1995; T.D. 99-27, 64 FR 13675, Mar. 22, 1999]

Subpart C—Duties and Responsibilities of Customs Brokers

§ 111.21 Record of transactions.

(a) Each broker shall keep current in a correct, orderly, and itemized manner records of account reflecting all his financial transactions as a broker. He shall keep and maintain on file copies of all his correspondence and other records relating to his Customs business.

(b) Each broker shall comply with the provisions of this part and part 163 of this chapter when maintaining records that reflect on his transactions as a broker.

(c) Each broker shall designate a knowledgeable company employee to be the contact for Customs for broker-wide customs business and financial recordkeeping requirements.

[T.D. 70-134, 35 FR 9254, June 13, 1970, as amended by T.D. 86-161, 51 FR 30341, Aug. 26, 1986; T.D. 98-56, 63 FR 32945, June 16, 1998]

§ 111.22 [Reserved]

§ 111.23 Retention of records.

(a) *Place and period of retention—(1) Place.* Records shall be retained by a broker in accordance with the provisions of this part and part 163 of this chapter within the broker district that covers the Customs port to which they relate unless the broker chooses to consolidate records at one or more other locations, and provides advance

notice of such consolidation to Customs, in accordance with paragraph (b) of this section.

(2) *Period.* The records described in paragraph (a)(1) of this section, other than powers of attorney, shall be retained for at least 5 years after the date of entry. Powers of attorney shall be retained until revoked, and revoked powers of attorney and letters of revocation shall be retained for 5 years after either the date of revocation or the date the client ceases to be an “active client” as defined in § 111.29(b)(2)(ii). When merchandise is withdrawn from a bonded warehouse, copies of papers relating to the withdrawal shall be retained for 5 years from the date of withdrawal of the last merchandise withdrawn under the entry.

(b) *Notification*—(1) *Applicability.* The procedure to maintain records on a consolidated system basis is generally available to brokers who have been granted permits to do business in more than one district.

(2) *Form and content.* If consolidated storage is desired by the broker, he must submit a written notice addressed to the Director, Regulatory Audit Division, U.S. Customs Service, 909 S.E. First Avenue, Miami, Florida 33131. The written notice shall include:

(i) The address at which the broker intends to maintain the consolidated records. This location must be within a district where the broker has been granted a permit;

(ii) A detailed statement describing all the records of transactions to be maintained at the consolidated location, the methodology of record maintenance, a description of any automated data processing to be applied, and a list of all the broker’s customs business activity locations; and

(iii) An agreement that there will be no change in the records, the manner of recordkeeping, or the location at which they will be maintained, unless Customs is first notified.

[T.D. 70–134, 35 FR 9254, June 13, 1970, as amended by T.D. 72–299, 37 FR 23100, Oct. 28, 1972; T.D. 78–138, 43 FR 21880, May 22, 1978; T.D. 86–161, 51 FR 30342, Aug. 26, 1986; T.D. 90–92, 55 FR 49884, Dec. 3, 1990; T.D. 95–77, 60 FR 50019, Sept. 27, 1995; T.D. 98–56, 63 FR 32945, June 16, 1998]

§ 111.24 Records confidential.

The records referred to in this part and pertaining to the business of the clients serviced by the broker shall be considered confidential, and the broker shall not disclose their contents or any information connected therewith to any persons other than such clients and the Field Director, Regulatory Audit, the special agent in charge, or other duly accredited agents of the United States except on subpoena by a court of competent jurisdiction.

[T.D. 78–138, 43 FR 21880, May 22, 1978, as amended by T.D. 86–161, 51 FR 30342, Aug. 26, 1986]

§ 111.25 Records shall be available.

During the period of retention, the broker shall maintain his records in such manner that they may readily be examined, and they shall be made available for inspection, copying, reproduction or other official use by Customs regulatory auditors or special agents in accordance with the provisions of §§ 162.1a through 162.1i within the period of retention or within any longer period of time during which they remain in the possession of the broker.

[T.D. 78–138, 43 FR 21880, May 22, 1978, as amended by T.D. 79–159, 44 FR 31968, June 4, 1979; T.D. 86–161, 51 FR 30342, Aug. 26, 1986]

§ 111.26 Interference with examination of records.

Except in accordance with the provisions of §§ 162.1a through 162.1i, a broker shall not refuse access to, conceal, remove, or destroy the whole or any part of any record relating to his transactions as a broker which is being sought, or which the broker has reasonable grounds to believe may be sought, by the Treasury Department or any representative thereof, nor shall he otherwise interfere, or attempt to interfere, with any proper and lawful efforts to procure or reproduce information contained in such records.

[T.D. 70–134, 35 FR 9254, June 13, 1970, as amended by T.D. 79–159, 44 FR 31968, June 4, 1979; T.D. 86–161, 51 FR 30342, Aug. 26, 1986]